

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 53072

Petitioner:

CHRISTOPHER M. NARO,

v.

Respondent:

DOUGLAS COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on March 17, 2010, Debra A. Baumbach and Karen E. Hart presiding. Petitioner appeared pro se. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**5087 Barn Swallow Way Parker, Colorado
(Douglas County Schedule No. R0419554)**

The subject property consists of a 3,163 square foot ranch style dwelling built in 2000 with a 3,176 square foot walkout basement, 2,114 square feet of which are finished, and a 1,160 square foot built-in garage.

Petitioner's witness, Mr. Richard Chana, a licensed real estate agent and managing broker for The Timbers since 1996, testified that he has sold 99.9% of the new homes in The Timbers, which is a custom home community. He has also sold 42 resale properties. The subject property is located in Section 23 of The Timbers. Houses located in Section 23 are older and have lesser quality finish than houses located in Sections 24 and 25, which are newer homes built in 2004 to 2005. Section 24 homes sold for more than Section 23 homes due to their better finish and larger home size.

Mr. Chana testified that he is familiar with the subject property. The media room in the basement is unfinished. Mr. Chana estimates the basement is 60% unfinished. Mr. Chana does not

believe the subject property would have sold for Respondent's value of \$980,000.00. The market was deteriorating starting in 2007 and continuing through the summer of 2008. As evidence of this, Mr. Chana cited a declining number of new homes sales: 27 new home sales in 2007, 9 sales in 2008, and 6 sales in 2009. Mr. Chana believes the subject property would have sold for between \$700,000.00 and \$800,000.00 during the base period.

Based on the market approach, Petitioner presented an indicated value of \$790,000.00 for the subject property.

Petitioner testified that his criteria for choosing comparable sales were properties with a total finish basement and above grade square footage within 1,000 square feet of the subject property's 4,883 square feet and years of construction from 1997 to 2002. He looked for base period sales of ranch or two-story very good quality custom home design with walkout basements and a significant portion of basement finish. He looked for sales of properties located in Section 23 of The Timbers subdivision.

Petitioner presented comparable sales based on two different home designs. Page 60 of Exhibit 1 consists of six comparable sales of ranch-style homes with walkout basements, ranging in sales price from \$663,000.00 to \$834,000.00 and in size from 2,183 to 3,018 square feet. After adjustments were made, the sales ranged from \$700,083.00 to \$870,948.00. Mr. Naro averaged the adjusted sales prices to arrive at a value of \$806,534.00.

Page 62 of Exhibit 1 consists of six comparable sales of two-story style homes ranging in sales price from \$699,900.00 to \$929,400.00 and in size from 3,028 to 3,910 square feet. After adjustments were made, the sales ranged from \$711,051.00 to \$884,151.00. Mr. Naro averaged the adjusted sales to arrive at a value of \$774,772.00.

Petitioner also presented equalization data for homes in his area, which he believes show that his property is overvalued by 13% to 35%.

Petitioner is requesting a 2009 actual value of \$790,000.00 for the subject property, based on an average sales price of all twelve of his comparable sales.

Petitioner testified that Respondent did not have the correct basement finish square footage for the subject property. Based on architectural drawings, Petitioner believes the correct finished basement area should be 1,730 square feet.

Respondent's witness, Mr. Thomas L. Brown, a Certified Residential Appraiser with the Douglas County Assessor's office, presented an indicated value of \$980,000.00 for the subject property based on the market approach.

Respondent presented four comparable sales ranging in sales price from \$799,000.00 to \$1,150,000.00 and in size from 2,683 to 3,729 square feet. After adjustments were made, the sales ranged from \$830,392.00 to \$1,060,470.00.

Mr. Brown's criteria for choosing comparable sales was based primarily on ranch and two-story custom built house styles between approximately 2,500 to 3,700 square feet in size, a year of construction from 1995 to 2006, and a similar lot size.

Mr. Brown's square footage calculation was based on above grade area, which is a standard practice in the appraisal industry. The adjustment amounts were determined by extraction of each characteristic from the sales price. The market did not reflect a significant value difference for lot size variations; however, land adjustments were made for oversized lot, view, and location. Mr. Brown used a decreasing time adjustment factor.

In weighting the comparable sales, Mr. Brown looked at several factors including the total gross adjustment percentage. He gave 25% weight to Sale 1, 50% to Sale 2, and 25% to Sale 3. Mr. Brown gave no weight to Sale 4 as it was a two-story design; he used this sale to bracket the subject property's square footage. He considers Comparable Sale 2 to have the most weight as it is nearest in location and similar in square footage. Mr. Brown placed the subject value at the low to midrange point of the adjusted sales range. Mr. Brown concluded to a value of \$980,000.00 for the subject property.

Regarding Petitioner's valuation methodology, Mr. Brown testified that it is not acceptable to use average sale prices. The correct methodology is to first look at the arm's-length comparable sales located nearest in location to the subject that sold during the 18-month study period. Next you make adjustments for physical characteristic differences as compared to the subject. Finally, you look at the indicated value range and decide where the subject property falls.

Mr. Brown did not look at assessor assigned values. He looked at actual sales based on physical characteristics. He did not use sales price as a criteria.

Respondent assigned an actual value of \$980,000.00 to the subject property for tax year 2009.

The Board ordered an inspection of the subject property to determine the correct square footage of the subject property's finished basement. Per the Board's order, Respondent's witness inspected the subject property on March 19, 2010. On March 22, 2010 the Board received the results of the inspection from Respondent. The Board did not receive a response from Petitioner. Respondent submitted to the Board the following corrections to the subject property characteristics:

| <u>Item</u> | <u>Prior to Inspection</u> | <u>After Inspection</u> |
|----------------------------------|----------------------------|-------------------------|
| Total Above Grade Square Footage | 3,153 | 3,163 |
| Total Unfinished Basement Area | 3,124 | 3,176 |
| Total Finished Basement Area | 2,523 | 2,114 |

Based on the square footage changes, Mr. Brown submitted an adjusted comparable sales range from \$819,862.00 to \$1,049,940.00. Mr. Brown's value conclusion for the subject property for tax year 2009 remained the same as presented in the hearing at \$980,000.00.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2009.

The Board determines that ranch style homes are the best comparables for determining the value of the subject property. Petitioner's adjusted ranch sales ranged from \$700,083.00 to \$870,948.00. Respondent's ranch style comparable sales after adjustment ranged from \$819,862.00 to \$998,845.00. Respondent's Sale 2, which is also Petitioner's ranch style Sale 1, is located in close vicinity to the subject property and lies at the midpoint of Respondent's sale range, however the Board recognizes that Respondent's total dollar adjustments are upwardly large. Petitioner's ranch style Sales 5 and 6 are also located in close proximity to the subject property and have adjusted sales prices of \$861,615.00 and \$855,576.00 respectively.

The adjusted range for all three sales is \$855,576.00 to \$901,638.00. The Board concludes that the value of the subject property should come from near the midpoint of the sales range.

The Board concludes that the 2009 actual value of the subject property should be reduced to \$875,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$875,000.00.

The Douglas County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 30th day of April 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Karen E. Hart

Karen E. Hart

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Heather Flannery

Heather Flannery

